
OVERVIEW

The Michigan Department of Health and Human Services (MDHHS) must make efforts to normalize the lives of children who are placed in the custody of MDHHS. This includes empowering caregivers to encourage children to engage in extracurricular activities that promote child well-being.

DEFINITIONS**Caregiver**

For purposes of the Reasonable and Prudent Parent Standard, caregiver is defined as a licensed foster parent with whom a child in foster care has been placed or a designated official for a child caring institution in which a child in foster care has been placed.

**REASONABLE AND
PRUDENT PARENT
STANDARD**

Children in foster care have the right to participate in age and developmentally appropriate activities that are accepted as suitable for children of the same chronological age or level of maturity. The Reasonable and Prudent Parent Standard is a standard of decision making that allows a caregiver to make routine parenting decisions regarding the participation in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interests while encouraging the emotional and developmental growth of the child. Caregivers may make certain decisions, similar to daily decisions a parent is expected to make, regarding the child's participation in activities without prior approval of the child's caseworker, the licensing or approval agency, or the juvenile court.

**Requirements for
Decision Making**

A caregiver must use the Reasonable and Prudent Parent Standard in determining whether to permit a child to participate in an extracurricular, enrichment, cultural, or social activity. The caregiver must consider the following:

- The child's overall age, maturity and developmental level to maintain the overall health and safety of the child.

- Potential risk factors and the appropriateness of the activity.
- Federal and state laws, and licensing requirements.
- The best interest of the child based on the caregiver's knowledge of the child.
- The importance of encouraging the child's emotional and developmental growth.
- The importance of providing the child with the most family-like living experience possible.
- The behavioral history of the child and the child's ability to safely participate in the proposed activity.

An activity cannot override or interfere with case plans or other court-ordered requirements, such as parenting time.

Participation in Activities

Caregivers must ensure that the child has the safety equipment, necessary permissions, and training to safely engage in each activity in which the child participates. The [DHS-5331, Caregiver Guidelines for Reasonable and Prudent Parent Standard](#), is available to provide caregivers with guidance on the types of activities they can approve and the types of activities that require further approval.

Residential Setting Activities

When children are placed in a residential treatment setting, the provider must incorporate normal activities into residential programming. These activities must comply with the Reasonable and Prudent Parent Standard and will help children with skills essential for positive development. A designated individual(s) must be onsite and authorized to apply the standard to decisions involving the child's participation in activities. This designated individual must be trained in how to use and apply the standard.

Caseworker Role

The caseworker must provide a child's information such as health, mental health, and education to the caregiver to assist with decision-making. The caseworker must document the child's

regular and ongoing opportunities to engage in activities and the foster parent or child caring institution's efforts to support those activities in accordance with the Reasonable and Prudent Parent Standard. The caseworker must document this information in the *Child Information* section under *Child Engagement and Perception of Circumstances* of the case service plan.

Licensing Worker Role

During the initial home evaluation process, licensing workers must provide foster home applicants with the DHS-5331, Caregiver Guidelines for Reasonable and Prudent Parent Standard, and ensure the foster parent completes the Reasonable and Prudent Parent Standard training prior to licensure. In the initial home evaluation, the licensing worker must document:

- The date the applicant was provided the DHS-5331.
- The date the applicant completed the Reasonable and Prudent Parent Standard training.
- The applicant's ability to make careful and thoughtful parental decisions under the standard.

The licensing worker must verify annually that the foster parent(s) is promoting and protecting the ability of children placed in their home to participate in age-appropriate activities according to the standard and must assess if there is a need for ongoing training.

Liability

When exercising the Reasonable and Prudent Parent Standard, a caregiver may not be liable for harm caused to a child while engaged in an activity or experience approved by the caregiver if:

- The foster parent is licensed and acting within the scope of their authority as a foster parent.
- The caregiver has completed the required training related to the Reasonable and Prudent Parent Standard.
- The caregiver has considered all the factors in the standard when approving the activity, and
- The approval does not conflict with any federal or state laws, licensing rules, court orders or the case service plan.

If legal action is taken against the licensed foster parent, MDHHS may reimburse the foster parent for the costs of legal counsel; see [FOM 903-09, Case Service Payments](#). The reimbursement does not impose any liability on the department or the foster parent.

Unlicensed relatives do not have liability protection under the law, though it is best practice for relatives to make decisions under the Reasonable and Prudent Parent Standard. The caseworker must discuss licensure with the relative and ensure the relative is aware that licensure grants them liability protection when exercising the Reasonable and Prudent Parent Standard; see [FOM 722-03B, Relative Engagement and Placement](#).

Parental Engagement

When the goal is reunification, caseworkers and caregivers must engage the legal parent in discussions regarding regular and ongoing activities that support normalcy for the child. The discussions may include participation in extracurricular activities the child was involved in prior to entering care or future involvement in activities such as sports, dating, or participation in the foster family's activities.

PARENTAL AUTHORITY TO CONSENT

Decisions made under the standard do not supersede the existing legal rights of a legal parent or guardian to consent or approve certain activities while their children are in care. This includes decisions such as entering the military, marriage, entering contracts or leases, and education.

Consenting Authority by Legal Status

The consenting authority is based on the child's legal status.

Temporary Wards

The legal parent or guardian is the consenting authority for activities that require legal consent. If the parents' whereabouts are unknown or the parents refuse to consent, the court may be petitioned to give consent.

MCI Wards

When a child is committed to MDHHS pursuant to Act 220 of the Public Acts of 1935, or Act 296 of 1973, the child becomes a ward of the Michigan Children's Institute (MCI), and the MCI superintendent is appointed as the child's legal guardian.

Permanent Court Wards

The court is the legal guardian for permanent court wards.

Young Adults Ages 18 and Older

Young adults ages 18 and older can consent for themselves. The caseworker must advise the young adult that if they participate in the activity, they do so without the authority of the supervising agency.

**Public Use of
Photographs**

The consenting authority for public use of a child's photograph or video that identifies them as a child in foster care is as indicated above.

The [DHS-199, Consent for Publication](#), is required for photo releases for all children in foster care under the age of 18. For temporary wards, the form must be completed and signed by the child's legal parent or guardian.

Media Interviews

Media interviews of children in foster care will be granted in cases when the appropriate authorizing party has determined the interview is in the best interest of the child. Even with the appropriate authority's consent, the child has the right to decline to be interviewed. Young adults ages 18 and older can consent for themselves but must be advised that if they participate in the interview, they do so without the authority of the supervising agency.

Foster parents and relative caregivers do not have the authority to decide if an interview should be conducted with a child.

If there is a dispute or questions about youth participating in a media interview, the caseworker must contact the [MDHHS Office of Communications](#).

Out-of-State Travel

The legal parent or guardian must give consent for a temporary court ward to travel out-of-state. The foster parent or relative caregiver must be provided with evidence of authority to travel with the child on department/agency letterhead.

If the parents' whereabouts are unknown or the parents refuse to consent, the court must be petitioned to give consent. The foster parent or relative caregiver must be provided with a copy of the court order authorizing travel.

If the child is an MCI ward, the supervising agency can give permission to travel out-of-state. Consultation with the MCI Superintendent is not necessary. The foster parent or relative caregiver must be provided with evidence of authority to travel with the child on department or agency letterhead.

If the youth is a permanent court ward, local court procedures must be followed.

For all children under the care and supervision of the department, the supervising agency must notify the court each time a child travels out-of-state. If the child is being supervised by a Placing Agency Foster Care (PAFC), the PAFC must also notify the MDHHS purchase of service (POS) monitor.

International Travel

The legal parent/guardian must give consent for a temporary court ward to travel internationally. The foster parent or relative caregiver must be provided with evidence of authority to travel with the child on department or agency letterhead.

If the child is an MCI ward, the supervising agency can give permission to travel internationally if no passport is required. MCI must grant consent for any international travel that requires a passport, **even if the child already has a current passport.**

If the child is a permanent court ward, local court procedures must be followed.

For all children under the care and supervision of the department, the supervising agency must notify the court each time a child travels internationally. If the child is being supervised by a PAFC, the PAFC must also notify the MDHHS POS monitor.

Passports

If a passport is needed for international travel and the child does not have a passport, see the [US Department of State US Passports webpage](#) for information on current requirements to obtain a passport for children under age 16 and children ages 16 and 17.

If a passport is required for an MCI ward and the child does not have a current passport, the caseworker must contact MCI to obtain authorization for the foster parents to apply for a passport for the child.

Legal Action or Suits on Behalf of a Ward

If the supervising agency becomes aware of legal action/suit being brought on behalf of or against a child under the care and supervision of the department, the supervising agency must immediately notify the [Children's Services Legal Division](#).

Note: If the child is an MCI ward, the caseworker must also notify the MCI superintendent immediately.

The written notification must include pertinent information about who is suing, why the suit is being brought, and a copy of the child's commitment order. Under no circumstances is a local county MDHHS, PAFC, foster parent, or any other party to initiate or give another person permission to initiate legal action/suit on behalf of a child or youth without the approval of the Children's Services Legal Division.

Driver's License

Only the legal parent or guardian may sign a driver license application for temporary court wards. The caseworker may sign the driver license application for the youth if the youth is an MCI ward. Signing the application does not normally result in civil liability for negligent operation of a motor vehicle on the part of the youth; liability may result for the owner of the vehicle or for the youth.

Health Care

For policy pertaining to consent for medical care, see [FOM 801-04, Consent for Health Treatment and Care](#), and [FOM 802-1, Psychotropic Medication in Foster Care](#).

LEGAL BASE**Federal Law****Preventing Sex Trafficking and Strengthening Families Act,
Public Law 113-183. Section 111 Supporting Normalcy for
Children in Foster Care**

Section 111 of this act establishes standards for normalcy for a child who is in the custody of the state and includes a Reasonable and Prudent Parent Standard and normalizing activities for children. Michigan communicated the implementation of this provision to foster children through the [Foster Children Bill of Rights](#).

State Law**Reimbursement of Legal Costs of Foster Parents, 1980 PA 33,
MCL 722.161 et seq.**

An ACT to provide for the reimbursement of certain legal costs of foster parents; to provide for the recognition and nonrecognition of certain causes of action against foster parents and legal guardians; and to prescribe powers and duties of the department of social services.

**Child Placing
Agency****Mich Admin Code, R 400.12315.**

Rule 315. Child's communication with family and friends.

**Foster Family
Homes and Foster
Family Group
Homes for
Children****Mich Admin Code, R 400.9419.**

Rule 419. Opportunities for participation in activities.

**Child Caring
Institution****Mich Admin Code, R 400.4124.**

Rule 124. Child's communication with family and friends.

Mich Admin Code, R 400.4135.

Rule 135. Work experience for residents.

Mich Admin Code, R 400.4136.

Rule 136. Recreational activities.

POLICY CONTACT

Send questions about this policy item to the [Child Welfare Policy Mailbox](#).